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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,881	12/13/2001	James K. Guy	99-377/009774	4438

7590

09/26/2003

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 09/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Communication Re: Appeal**

Applicant(s)

10/022,881

Applicant(s)

GUY, JAMES K.

Examiner

Michael Dalakis

Art Unit

2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:

- (a) ☐ it was not timely filed.
- (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
- (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
- (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
- (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
- (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.

2. ☒ The appeal brief filed on 7-25-03 is NOT acceptable for the reason(s) indicated ~~below~~ in the attached paper.

- (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.
- (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
- (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☐ The appeal in this application is DISMISSED because:

- (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
- (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
- (d) ☐ other: \_\_\_\_\_

4. ☐ Because of the dismissal of the appeal, this application:

- (a) ☐ is abandoned because there are no allowed claims.
- (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
- (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

## **NOTICE OF DEFECTIVE APPEAL BRIEF**

The appeal brief filed on July 25, 2003 is unacceptable because the Applicant states that each of the rejected claims stands on its own recitation and is separately patentable, yet the Applicant has not provided any detailed arguments traversing the final rejection of and asserting the patentability of any claims beyond independent claim 1. The mere assertion of patentability of the other claims for “at least the same reasons” as those for claim 1 is inconsistent with the Applicant’s statement that each claim stands or falls on its own recitation. In addition, the Applicant has failed to provide the requisite number of copies of the appeal brief. For these reasons, the appeal brief is defective.

This application will become abandoned unless appellant obtains an extension of time under 37 CFR 1.136(a) and files the required appeal brief fee. The date on which the appeal brief, the fee for filing the appeal brief, the petition under 37 CFR 1.136(a), and the petition fee under 37 CFR 1.17(a) are filed will be the date of the reply and also the date for determining the period of extension and the corresponding amount of the fee. In no case may an appellant obtain an extension for more than FIVE MONTHS under 37 CFR 1.136(a), beyond the TWO MONTH period for filing the appeal brief.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Dalakis whose telephone number is 703.305.4021. The examiner can normally be reached on Monday-Thursday.

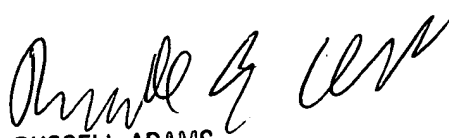
If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Russ Adams can be reached on 703-308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 2851

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.872.9317.

MD

September 25, 2003

  
RUSSELL ADAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800